

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NORTH DAKOTA**

In re:

Stark Energy, Inc.,

Chapter 11, Subchapter V
Case No. 24-30168

Debtor.

AMENDED OBJECTION TO JUSTIN BACON CLAIM (POC #12)

Stark Energy, Inc., the debtor in possession (“Debtor”), amends its objection to the claim filed by Justin Bacon (POC #12).

PROCEDURAL HISTORY

Justin Bacon filed POC #12 as a priority wage claim in the amount of \$8,950.62. The Debtor filed an objection to Mr. Bacon’s claim and, on September 26, 2024, the court held a hearing on the objection which was continued to allow Mr. Bacon to provide the Debtor with proof of the dates on which his wages were earned. Following the hearing, Mr. Bacon provided proof to the Debtor and the Court which were filed as Doc 183.

DISCUSSION OF FACTS AND LAW

Bankruptcy Code § 507(a)(4) provides priority payment for "allowed unsecured claims, but only to the extent of \$15,150 for each individual or corporation, as the case may be, earned within 180 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first, for-- (A) wages, salaries, or commissions, including vacation, severance, and sick leave pay earned by an individual".

Here, the Debtor filed for bankruptcy on April 23, 2024. Accordingly, the last day for a priority wage claim is October 26, 2023. Based on pages 40 – 42 of Doc 183, wages earned following October 26, 2023 are:

10/30/2023	196
10/31/2023	336
11/14/2023	252
11/15/2023	280
11/16/2023	168
11/17/2023	154
11/18/2023	140
11/19/2023	154
11/20/2023	98
	1778

In addition to the direct wages, the North Dakota Department of Labor and Human Rights determined that Mr. Bacon is entitled to penalty wages. While this issue has not been addressed by the North Dakota Bankruptcy Court, other bankruptcy courts have found that penalty wages are not wages within the meaning of the Bankruptcy Code. In *Matter of Garleped Transfer, Inc.*, 97 B.R. 305 (E.D. La. 1989), the court reasoned that the term "wages" in the context of 11 U.S.C. § 507 (a)(3) (now § 507(a)(4)) is limited to "money directly due (employees) in back wages" and does not include penalty wages, which are more properly characterized as penalties. Similarly, in *In re Metro Fulfillment, Inc.*, 294 B.R. 306 (9th Cir. BAP 2003), the court concluded that penalty wages imposed under California law did not qualify as wages under 11 U.S.C. § 507(a)(3) (A) (now § 507(a)(4)) and were instead considered general unsecured claims.

THEREFORE, the Debtor respectfully requests that Proof of Claim #12 be allowed as a priority wage claim in the amount of \$1,778 and as a general unsecured claim in the amount of \$7,172.62.

Dated: October 18, 2024

Ahlgren Law Office, PLLC

/s/ Erik A. Ahlgren
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ATTORNEYS FOR DEBTOR

**UNITED STATES BANKRUPTCY COURT
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In re:

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Debtor.

ORDER

This matter came before the Court on the objection of Stark Energy, Inc. (“Debtor”) to the proof of claim filed Justin Bacon (POC #12) claiming priority wages in the amount of \$8,950.62. Based upon the files and records herein,

IT IS HEREBY ORDERED:

Proof of Claim #12 shall be allowed as a priority wage claim in the amount of \$1,778 and as a general unsecured claim in the amount of \$7,172.62.

Dated: _____

Shon Hastings
Judge of Bankruptcy Court

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NORTH DAKOTA**

In re:) Bankruptcy No. 24-30168
) Chapter 11, Subchapter V
)
Stark Energy, Inc.,) **CERTIFICATE OF SERVICE**
)
)
Debtor.)
_____)

I, Lisa Ahlgren, declare under penalty of perjury that on October 18, 2024 she caused to be served the following documents via the CM/ECF system to those parties requesting electronic notification.

1. Objection to Proof of Claim

And by U.S. Mail to:

Justin Bacon
c/o ND Department of Labor
600 E. Boulevard Ave Dept 406
Bismarck, ND 58505-0340

Justin Bacon
305 North Wibaux St
Wibaux MT 59353

Executed: October 18, 2024

Signed: /s/Lisa Ahlgren

Lisa Ahlgren
220 West Washington Ave, Ste 105
Fergus Falls, MN 56537